



November 24, 2020

The Hon. Scott B. Fielding
Manitoba Minister of Finance,
Room 103 Legislative Building
450 Broadway
Winnipeg, MB R3C 0V8

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[Delivered by email: minfin@leg.gov.mb.ca]

Dear Minister:

Re: Immediate Emergency Assistance Request for Manitoba's Mortgage Broker and Real Estate Communities

Premier Pallister's government has been a leader in the fight to eliminate interprovincial trade barriers, and in the quest to reduce red tape for businesses operating in Manitoba. In light of both of these objectives, we are asking you to urgently consider these steps to assist mortgage professionals, who are facing a difficult regulatory challenge amid the COVID-19 crisis.

1. Documentation and In-Person Transaction Requirements

Until the second wave of emergency restrictions undertaken last week, one of the bright spots in Manitoba's economy was activity in residential real estate. Notably, while Manitoba real estate professionals are permitted to execute sales electronically, Manitoba mortgage professionals are not. Home buyers or others seeking mortgages from our membership must meet in-person, and execute contracts manually, providing "wet ink" signatures. Meeting this requirement has increased interpersonal contact over the summer, and may now, in certain cases, be unlawful given new restrictions needed to fight COVID-19.

2. Request re: Temporary (Emergency) Remedy

Through the *Emergency Powers Act*, you and your Cabinet colleagues have the authority under Sections 12.5 through 12.13 to enact regulations on a temporary basis to facilitate business delivery and service continuity during an emergency. This authority has already been used in 2020 to (for example) waive in-person transaction and witness provisions, and to allow electronic corporate meetings in place of in-person meetings that were previously mandatory.

Through regulation, the Manitoba Cabinet can also designate various financial transactions as qualifying under the *Electronic Commerce and Information Act* for electronic execution and fully-



electronic record-keeping. Given the state of emergency, the list of transactions covered under the *Act* was updated as recently as October 30, 2020. Notably, one half (the purchase and sale) of the typical real estate transaction is electronically executable in Manitoba under these regulations, but the other half – our job, providing financing – is not.

We are asking the government to consider both of these approaches to urgently extend electronic signature and record-keeping allowances to both cover mortgage transactions and signatures, and to allow mortgage records to be kept electronically on Canadian servers, for the duration of the crisis, and beyond. This step would reduce physical contact with clients and brokers while maintaining the pace of activity in this critical market.

3. Recommendation re: Permanent Remedy

This challenge exists in 2020 because mortgage transactions have not already been included in the *Electronic Commerce and Information Act*, even though electronic mortgage transactions have long been routine in other jurisdictions. For example, Ontario has allowed electronic execution of mortgages since July 1, 2015. We would be happy to provide a list of other jurisdictions with similar rules upon request if it would be of interest to you or your staff.

Further, the requirement that mortgage brokers keep hard copy records in Manitoba – as opposed to keeping electronic records accessible in servers located within Canada - effectively creates an interprovincial trade barrier, which our Manitoba members are keen to remove. As a specific example of the need for legislation to evolve with the business environment, Equifax Canada has recently amended its Authorized User Agreement for mortgage professionals, eliminating the ability for brokers and agents to print a hard copy of the client credit reports they request. As such, it is now impossible for Manitoba brokers to comply with a need to retain hard copies of said reports without breaching a commercial contract that potentially forfeits future access to client credit information, effectively rendering them unable to do their job.

With the government already considering Red Tape reduction bills in the current session, we note that now may be an opportune time to consider more permanent statutory changes to remedy this problem, either by amending Red Tape bills already in place, or through new legislation to broaden electronic commerce opportunities.

On behalf of our members in Manitoba, we look forward to any further discussions on this issue as needed, and we would be happy to connect you with Manitoba mortgage brokers at your convenience if you need to hear more from member professionals directly. Until then, please accept our best wishes for you, your staff and your family in this challenging time.



Sincerely,

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CC: Keith Schinkel, Registrar, Manitoba Financial Services Agency

About Mortgage Professionals Canada

Mortgage Professionals Canada (MPC) is the national mortgage industry association representing 12,000 individuals and 1,000 companies, including mortgage brokerages, lenders, insurers and industry service providers. Our members make up the largest and most respected network of mortgage professionals in Canada. MPC represents members' interests to government, regulators, media and consumers. Together, the association is dedicated to maintaining a high standard of industry ethics, consumer protection and best practices.

The mortgage broker channel originates over 35% of all mortgages in Canada and 55% of mortgages for first-time homebuyers, representing approximately \$80 billion dollars in annual economic activity. With our diverse and strong national membership, Mortgage Professionals Canada is uniquely positioned to speak to issues impacting all aspects of the mortgage origination process, with all levels of government in Canada.